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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MANUELA HERNANDEZ,
individually and as Guardian ad Litem for
Decedent, CARLOS AGUILAR CALDERON,

Plaintiff,

vs.

COUNTY OF SANTA CLARA, a
municipal corporation; Officer TAMBINI,
individually and in his capacity as Sheriff's
Deputy for the COUNTY OF SANTA CLARA;
Officer TSE, individually and in his capacity as
Sheriff's Deputy for the COUNTY OF SANTA
CLARA and DOES 1-50, inclusive, individually,
jointly and severally,

Defendants.

CASE NO.:

COMPLAINT FOR DAMAGES

(42 U.S.C. Section 1983 and pendent tort
claims)

JURY TRIAL DEMANDED

INTRODUCTION

1. On December 2, 2018 Decedent, CARLOS AGUILAR CALDERON, died by suicide in his cell at the COUNTY OF SANTA CLARA jail. Defendants failed to supervise and/or treat him according to the law and the appropriate protocols after having knowledge that Decedent intended killing himself.

1 8. PLAINTIFF, MANUELA HERNANDEZ (hereinafter “HERNANDEZ” or
2 “PLAINTIFF”) has been and is a resident of California and is a United States Citizen. HERNANDEZ
3 was married to AGUILAR. HERNANDEZ is the guardian ad litem for Decedent, AGUILAR.

4 9. Defendant COUNTY OF SANTA CLARA (hereinafter “COUNTY”) is an
5 incorporated public entity duly authorized and existing as such in and under the laws of the State of
6 California; at all times herein mentioned, Defendant County has possessed the power and authority to
7 adopt policies and prescribe rules, regulations and practices affecting the operation of the SANTA
8 CLARA County Sheriff’s Department and its tactics, methods, practices, customs and usage. At all
9 relevant times, Defendant County was the employer of DOES Defendants.
10

11 10. Defendant Officer TAMBINI (hereinafter “TAMBINI”) is and was at all times
12 mentioned herein employed by Defendant COUNTY as a deputy sheriff, assigned to supervise
13 AGUILAR and other inmates and/or pretrial detainees in his housing unit at the COUNTY OF
14 SANTA CLARA jail, and was acting in the course and scope of his employment as a deputy sheriff.
15 He is being sued individually and in his official capacity as a deputy sheriff for the COUNTY.
16

17 11. Defendant Officer TSE (hereinafter “TSE”) is and was at all times mentioned herein
18 employed by Defendant COUNTY as a deputy sheriff, assigned to supervise AGUILAR and other
19 inmates and/or pretrial detainees in his housing unit at the COUNTY OF SANTA CLARA jail, and
20 was acting in the course and scope of his employment as a deputy sheriff. He is being sued
21 individually and in his official capacity as a deputy sheriff for the COUNTY.
22

23 12. PLAINTIFF is ignorant of the true names and capacities of Defendants DOES 1
24 through 50, inclusive, and therefore sues these Defendants by such fictitious names. PLAINTIFF is
25 informed and believes and thereon allege that each defendant so named is responsible in some
26 manner for the injuries and damages sustained by PLAINTIFF as set forth herein. PLAINTIFF will
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1 amend his complaint to state the names and capacities of DOES 1-50, inclusive, when they have been
2 ascertained.

3 **ADMINISTRATIVE PREREQUISITES**

4 13. PLAINTIFF is required to comply with an administrative tort claim requirement under
5 California law. PLAINTIFF filed an administrative claim with the COUNTY OF SANTA CLARA
6 on May 24, 2019. On July 8, 2019, the COUNTY OF SANTA CLARA returned PLAINTIFF's claim
7 without action. PLAINTIFF has exhausted all administrative remedies pursuant to California
8 Government Code § 910.
9

10 **FACTUAL ALLEGATIONS**

11 14. The incident took place on December 2, 2018 at approximately 8:00 p.m. The location
12 was the Elmwood Correctional Facility, 701 S. Able Street, Milpitas, CA 95035. CARLOS
13 AGUILAR CALDERON died by suicide while under the supervision of COUNTY OF SANTA
14 CLARA Sheriff's Deputies, TAMBINI and TSE.
15

16 15. On July 25, 2019, COUNTY correctional officers booked AGUILAR into the facility
17 as a pre-trial detainee. AGUILAR had suicidal ideations. However, COUNTY intake officers failed
18 to properly classify AGUILAR as a suicide risk. On December 2, 2018, COUNTY staff assigned
19 Officer TSE and Officer TAMBINI to supervise AGUILAR'S unit. Officer TSE was on overtime.
20 TSE was also responsible for training Deputy TAMBINI. Neither officer was familiar with
21 AGUILAR. On December 2, 2019, AGUILAR showed signs of suicidality. At about 6:30 p.m.
22 officer TAMBINI performed a welfare check on AGUILAR. However, TAMBINI failed to notice
23 signs pointing to AGUILAR'S suicidal intent. At approximately 7:15 p.m. TSE and TAMBINI
24 allowed inmates free time outside of their cells. However, AGUILAR refused to exit his cell. Instead,
25 AGUILAR sat anxiously on his bunk. Then, at approximately 8:00 p.m. Deputy TAMBINI
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27
28

1 performed another welfare check on AGUILAR. TAMBINI found AGUILAR hanging by a towel
2 from the top bunk in his cell.

3 16. As a result AGUILAR died by suicide. AGUILAR leaves behind his wife,
4 MANUELA HERNANDEZ, and two children.

5 **FIRST CAUSE OF ACTION**

6 **(Violation of the Fourteenth Amendment of the United States Constitution)**

7 **(Deliberate Indifference, 42 U.S.C. § 1983)**

8 **(Against Defendants COUNTY, TAMBINI, TSE, and DOES 1-50)**

9 17. PLAINTIFF hereby re-alleges and incorporates by reference herein paragraphs 1
10 through 16 of this Complaint.

11 18. As set forth above, PLAINTIFF was subjected to deprivation of rights by Defendants
12 acting under color of law of the United States and State of California and of the COUNTY OF
13 SANTA CLARA, which rights include, but are not limited to, privileges and immunities secured to
14 PLAINTIFF by the Constitution and laws of the United States. By reason of the aforementioned acts,
15 Defendants violated the constitutional rights and liberty interests of AGUILAR.
16

17 19. AGUILAR was a pretrial detainee who had not been convicted of any crime.
18 AGUILAR had a due process right to be free from the acts of entity Defendants that would cause him
19 serious injury. *Farmer v. Brennan*, 511 U.S. 825, 833 (1994), generally established that prison
20 officials have a duty to protect prisoners. This is so, because corrections officers have “stripped [the
21 inmates] of virtually every means of self-protection and foreclosed their access to outside aid.” City
22 of *Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983).
23

24 20. Defendants TAMBINI, TSE and other COUNTY officers knew or should have known
25 that AGUILAR intended on harming himself. On July 25, 2018, COUNTY deputies should have
26 classified AGUILAR as a high suicide risk and enacted suicide protocol. Instead, deputies placed
27 AGUILAR in general population housing. Then, on December 2, 2019, AGUILAR showed signs of
28

1 suicidality. Specifically, he anxiously sat on his bunk and did not participate in free time. However,
 2 Deputy TAMBINI failed to notice or investigate the signs. Instead, Defendants, including Deputy
 3 TAMBINI and Deputy TSE, were deliberately indifferent to the heightened needs of AGUILAR.

4 21. AGUILAR died by suicide as a result of Defendants' collective deliberate indifference
 5 to properly evaluating and monitoring him.
 6

7 WHEREFORE, PLAINTIFF pray for relief as hereinafter set forth.

8 **SECOND CAUSE OF ACTION**

9 **(42 U.S.C. Section 1983)**

10 **(Wrongful Death)**

11 **(Against Defendants COUNTY, TAMBINI, TSE, and DOES 1-50)**

12 25. PLAINTIFF hereby re-alleges and incorporates by reference herein paragraphs 1
 13 through 24 of this Complaint.

14 26. As set forth above, PLAINTIFF was subjected to deprivation of rights by Defendants
 15 acting under color of law of the United States and State of California and of the County of SANTA
 16 CLARA, which rights include, but are not limited to, privileges and immunities secured to
 17 PLAINTIFF by the Constitution and laws of the United States. By reason of the aforementioned acts,
 18 these Defendants, have violated the constitutional rights and liberty interests of AGUILAR, including
 19 those provided in the Fourteenth Amendment to the U.S. Constitution, and of each PLAINTIFF, as
 20 well as those which are protected under the Fourteenth Amendment's prohibition against depriving a
 21 person of a right to familial relationships without due process of law.
 22

23 27. Defendant's, including TAMBINI and TSE, knew of, or should have known of,
 24 Decedent's needs. However, TAMBINI and TSE failed to provide medical or mental health
 25 intervention and care for him. COUNTY staff members had enough information to infer the risk of
 26 harm to Decedent yet acted with deliberate indifference in their disregard for properly monitoring
 27 him. COUNTY deputies and DOES 1-50 failed to properly classify AGUILAR as a high suicide risk.
 28

1 28. As a result of DEFENDANTS' deliberate indifference, AGUILAR was deprived of
2 the necessary and indicated medical intervention, care and treatment, including but not limited to:
3 proper housing in a safety cell; proper monitoring; administration of psychotropic medications,
4 transfer to a mental health facility, or referral to a psychologist. Without proper treatment or follow-
5 up care, his mental state deteriorated, causing him to continue to suffer pain and mental anguish in
6 violation of his Fourteenth Amendment rights, resulting in his wrongful death by suicide.
7

8 WHEREFORE, PLAINTIFF pray for relief as hereinafter set forth.

9 **THIRD CAUSE OF ACTION**

10 **(42 U.S.C. Section 1983)**

11 **(Survival Action: Violation of Decedent's Civil Rights)**

12 **(Against Defendants COUNTY, TAMBINI, TSE and DOES 1-50)**

13 29. PLAINTIFF hereby re-allege and incorporates by reference herein paragraphs 1
14 through 28 of this Complaint.

15 30. The foregoing claim for relief arose in Decedent's favor, and AGUILAR would have
16 been the PLAINTIFF with respect to this claim had he lived.

17 31. Defendants acted under color of law when they failed to reasonably supervise
18 Decedent AGUILAR, and were deliberately indifferent to AGUILAR'S medical and psychiatric care,
19 thereby depriving him of certain constitutionally protected rights, including, but not limited to the
20 right to due process of law, as guaranteed by the Fourteenth Amendments to the United States
21 Constitution; said rights are substantive guarantees under the Fourteenth Amendments to the United
22 States Constitution.
23

24 WHEREFORE, PLAINTIFF pray for relief as hereinafter set forth.

25 **FOURTH CAUSE OF ACTION**

26 **(42 U.S.C. Section 1983)**

27 **(Violations of PLAINTIFF's Civil Right to a Familial Relationship)**

28 **(Against Defendants COUNTY, TAMBINI, TSE and DOES 1-50)**

1 32. PLAINTIFF hereby re-alleges and incorporates by reference herein paragraphs 1
2 through 31 of this Complaint.

3 33. COUNTY correctional officers' actions of not following COUNTY policy to visually
4 monitor high suicide risk inmates, including that of Decedent, ultimately lead to AGUILAR'S death,
5 causing PLAINTIFF to lose her right to a familial relationship with AGUILAR.

6 34. As a legal cause of Defendants' acting under color of law, acts and/or inactions, and
7 whose deliberate indifference caused injuries which resulted in AGUILAR'S death, PLAINTIFF was
8 deprived of her constitutional rights to a familial relationship, all in violation of rights, privileges, and
9 immunities secured by the Fourteenth Amendments to the United States Constitution.
10

11 WHEREFORE, PLAINTIFF pray for relief as hereinafter set forth.

12 **FIFTH CAUSE OF ACTION**
13 **(Monell - 42 U.S.C. Section 1983)**
14 **(Against Defendants COUNTY and DOES 1-50)**

15 35. PLAINTIFF hereby re-allege and incorporate by reference herein paragraphs 1
16 through 34 of this Complaint.

17 36. The aforementioned acts and/or omissions of COUNTY deputies in being
18 deliberately indifferent to AGUILAR'S safety and violating his civil rights were the direct and
19 proximate result of customs, practices and policies, or failed training administration by COUNTY
20 and DOES 1-50, as alleged herein.

21 37. At all times herein mentioned, COUNTY and DOES 1-50 maintained a policy or de
22 facto unconstitutional informal custom or practice of permitting, condoning, or improperly training
23 jail personnel to delay in providing adequate mental health and medical assistance to detainees that
24 are at high risk of suicide.
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1 38. PLAINTIFF alleges that Defendant COUNTY maintained a policy, custom or practice
2 of failing to provide the jail with adequate personnel to supervise detainees. Further, Defendant
3 COUNTY failed to train staff to properly classify, monitor and treat inmates that are at high risk of
4 suicide in violation of Title 15 Minimum Standards for Local Detention Facilities.

5 39. In fact, in March 2018, the COUNTY OF SANTA CLARA released *The Santa Clara*
6 *County Jail System History and Status of the Sheriff's Reforms* report. The report outlines
7 deficiencies pertaining to the COUNTY jail. Deficiencies include but are not limited to: no safety
8 cells within the jail; no procedures to screen for mental health issues, or suicidal ideations; deputies
9 failing to classify, or wrongly classifying inmates during the intake process.
10

11 40. Additionally, COUNTY officials failed to properly staff AGUILAR'S unit. In fact,
12 COUNTY Deputy TSE was on overtime at the time of AGUILAR'S suicide. TAMBINI was new and
13 unfamiliar with jail procedure. Both TAMBINI and TSE were unfamiliar with the unit they were
14 assigned to supervise. This left AGUILAR exposed to a lack of supervision, which along with
15 misclassification, caused him to die by suicide. These deficiencies caused the rate of attempted
16 suicides at COUNTY'S jail to triple in 2017. No less than 61 inmates attempted suicide in
17 COUNTY'S jails in 2017 alone.
18

19 41. These deficiencies posed a substantial risk of serious harm to AGUILAR. Defendant
20 COUNTY knew its policy posed this risk. However, the COUNTY failed to timely update their
21 facilities or properly implement the above-reference procedures that may have prevented
22 AGUILAR'S suicide.
23

24 42. The aforementioned acts and/or omissions and/or deliberate indifference by high
25 ranking County officials, including high ranking SANTA CLARA Sheriff's Department Supervisors,
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1 Defendants DOES 26-50, and each of them, resulted in the deprivation of PLAINTIFF's
2 constitutional rights.

3 WHEREFORE, PLAINTIFF pray for relief as hereinafter set forth.

4 **SIXTH CAUSE OF ACTION**

5 **(Negligence)**

6 **(Against Defendants COUNTY, TAMBINI, TSE, and DOES 1-50)**

7 43. PLAINTIFF hereby re-alleges and incorporates by reference herein paragraphs 1
8 through 42 of this Complaint.

9 44. The present action is brought pursuant to sections 820 and 815.2 of the California
10 Government Code. Pursuant to section 820 of the California Government Code, as public employees,
11 Defendants are liable for injuries caused by their acts or omissions to the same extent as a private
12 person.
13

14 45. COUNTY deputies, including TAMBINI and TSE, had a duty to provide appropriate
15 care to AGUILAR, who was a pretrial detainee protected by the 14th amendment. Defendant deputies
16 had a duty to properly classify and monitor AGUILAR as a suicide risk. TAMBINI and TSE had a
17 duty to sufficiently supervise AGUILAR. TAMBINI and TSE also had a duty to notice signs that
18 AGUILAR intended committing suicide. Defendants should have addressed AGUILAR'S suicidality
19 and summoned medical care for AGUILAR, including referring him to a psychologist, or transferring
20 him to a mental health facility.
21

22 46. Defendants breached their duty to AGUILAR. COUNTY deputies breached their duty
23 to AGUILAR when they failed to classify him as a high suicide risk. Further, TAMBINI and TSE
24 failed to notice signs that AGUILAR intended committing suicide. TAMBINI and TSE also failed to
25 properly monitor AGUILAR.
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1 47. AGUILAR died as a direct and proximate result of Defendants' failure to properly
2 classify, monitor, and treat him.

3 WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.

4 **SEVENTH CAUSE OF ACTION**
5 **(Violation of California Government Code § 845.6)**
6 **(Against Defendants COUNTY, TAMBINI, TSE and DOES 1-50)**

7 48. PLAINTIFF hereby re-alleges and incorporates by reference herein paragraphs 1
8 through 47 of this Complaint.

9 49. COUNTY knew or had reason to know that AGUILAR was in need of immediate and
10 higher-level medical care, treatment, observation and monitoring. Each such individual defendant,
11 employed by and acting within the course and scope of his/her employment with Defendant
12 COUNTY, knowing and/or having reason to know this, failed to take reasonable action to summon
13 and/or provide PLAINTIFF access to such care and treatment in violation of California Government
14 Code § 845.6.

15 50. COUNTY deputies failed to properly classify and monitor AGUILAR as a suicide
16 risk. Further, Defendants, TAMBINI and TSE, failed to refer AGUILAR to a psychologist, or
17 transfer him to a mental health facility, or even refer him to mental health services within the jail.
18

19 51. As legal cause of the aforementioned acts of all Defendants, AGUILAR was injured as
20 set forth above. PLAINTIFF's losses entitle her to all damages allowable under California law. As
21 such, PLAINTIFF is entitled to damages, penalties, costs, and attorney fees under California law.
22

23 WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.
24

25 **EIGHTH CAUSE OF ACTION**
26 **(C.C.P. Section 377.60 and 377.61)**
27 **(Wrongful Death- Negligence)**
28 **(Against Defendants COUNTY, TAMBINI, TSE, and DOES 1-50)**

1 52. PLAINTIFF re-alleges and incorporates by reference herein paragraphs 1 through 51
2 of this Complaint.

3 53. Defendants' negligent actions and/or negligent failure to act within the scope and
4 course of their employment with Defendants, as set forth herein-above proximately caused the death
5 of AGUILAR.

6 54. COUNTY owed AGUILAR, who was a pretrial detainee at COUNTY'S jail, a duty of
7 care under the fourteenth amendment. Sheriff's Deputies placed AGUILAR in a cell under
8 circumstances conducive to his committing suicide by hanging. Deputies placed AGUILAR in a cell
9 in a manner indicating deliberate indifference to Aguilar's psychological evaluation or psychiatric
10 care.
11

12 55. As an actual and proximate result of said Defendants' negligence, and the death of
13 AGUILAR, PLAINTIFF has sustained pecuniary loss resulting from the loss of comfort, society,
14 attention, services, and support of her husband, AGUILAR, in an amount according to proof at trial.
15

16 56. As a further actual and proximate result of said Defendants' negligence, PLAINTIFF
17 has incurred expenses, in an amount according to proof at trial.
18

19 57. Pursuant to California C.C.P. Sections 377.60 and 377.61, PLAINTIFF brought this
20 action, and claims damages from said Defendants for the wrongful death of AGUILAR, and the
21 resulting injuries and damages.
22

23 WHEREFORE, PLAINTIFF pray for relief as hereinafter set forth.

24 **NINTH CAUSE OF ACTION**
25 **(Intentional Infliction of Emotional Distress)**
26 **(Against Defendants COUNTY, TAMBINI, TSE and DOES 1-50)**

27 58. PLAINTIFF re-alleges and incorporates by reference paragraphs 1 through 57 of this
28 Complaint.

1 59. Defendants had or should have had notice that AGUILAR was a high suicide risk.
2 Particularly, COUNTY deputies and DOES 1-50 should have done an initial intake with AGUILAR.
3 During which time, COUNTY deputies should have classified AGUILAR as a high suicide risk.
4 TAMBINI and TSE also should have noticed signs that AGUILAR intended committing suicide.
5 Defendants should have known that withholding proper medical treatment would cause AGUILAR to
6 suffer from emotional distress.
7

8 60. Defendants' above-described actions constituted extreme and outrageous conduct.
9 Their actions prevented AGUILAR from receiving proper medical attention. Upon AGUILAR'S
10 entry into Santa Clara jail, the COUNTY was on notice that AGUILAR was a high suicide risk.
11 Despite knowing that AGUILAR was a high suicide risk, COUNTY staff deliberately ignored the
12 risk to AGUILAR when they failed to properly classify and treat him. COUNTY officer's placed
13 AGUILAR in a cell without proper evaluation and ongoing care which constituted extreme
14 outrageous conduct. As result of the AGUILAR did not receive proper medical treatment, causing
15 him to suffer extreme emotional distress. Consequently, AGUILAR took his own life.
16
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18 61. By engaging in the above-described conduct, each individual defendant intentionally
19 ignored or recklessly disregarded the foreseeable risk that their actions would cause PLAINTIFF to
20 suffer emotional distress from the loss of familial relationship with AGUILAR.
21

22 WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.

23 **JURY DEMAND**

24 PLAINTIFF hereby demands a jury trial in this action.

25 **PRAYER**

26 WHEREFORE, PLAINTIFF prays for relief, as follows:

27 1. For general damages in a sum according to proof;
28

2. For special damages in a sum according to proof;
3. For punitive damages in a sum according to proof;
4. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;
5. For injunctive relief as the court deems appropriate including that the policies of Defendant County for policy or policies relevant to authorizing, allowing, or ratifying the practice by its jail personnel of being deliberately indifferent to mental/psychiatric/medical health needs of the inmates;
6. For cost of suit herein incurred; and
7. For such other and further relief as the Court deems just and proper.

Dated: December 2, 2019

LAW OFFICES OF JOHN L. BURRIS

/s/ John L. Burris

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